

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

FILED BY LD D.C.

05 JUL -7 PM 3:48

THOMAS M. GOULD
CLERK, U.S. DISTRICT COURT
W.D. OF TN. MEMPHIS

UNITED STATES OF AMERICA,

Plaintiff,

vs.

DERRICO LaSHAUN MOODY,

Defendant.

X
X
X
X
X
X
X
X
X
X
X
X

Cv. No. 03-2812-M1/V

ORDER DENYING MOTION TO PROCEED IN FORMA PAUPERIS

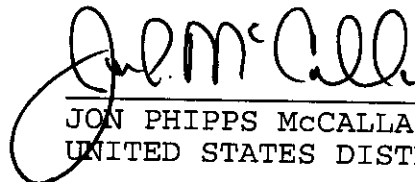
Defendant Derrico LaShaun Moody, Bureau of Prisons inmate registration number 17637-076, who is currently incarcerated at the Federal Correctional Institution in Manchester, Kentucky, filed a pro se motion pursuant to 28 U.S.C. § 2255 on October 30, 2003, accompanied by a legal memorandum. The Court issued an order on October 12, 2004, that denied the § 2255 motion, denied a certificate of appealability, and certified, pursuant to Fed. R. App. P. 24(a), that an appeal would not be taken in good faith. On November 1, 2004, Moody filed a motion to alter or amend the judgment, which the Court construed as a motion pursuant to Fed. R. Civ. P. 59(e) and, as so construed, denied the motion in an order issued on March 30, 2005. Judgment was entered on March 31, 2005. Moody filed a notice of appeal on December 21, 2004, and the Sixth Circuit docketed the appeal as case no. 04-6467. On May 2, 2005, Moody filed a motion seeking leave to proceed in forma pauperis on appeal.

15

The Plaintiff's motion is not properly before this Court, as the Court's October 12, 2004, order certified, pursuant to Fed. R. App. P. 24(a), that an appeal would not be taken in good faith. As a result of the certification, Moody is not entitled to proceed in forma pauperis even if he is indigent. Accordingly, the motion to proceed in forma pauperis is DENIED for the reasons stated in the October 12, 2004, order. In order to proceed with his appeal, Moody must file his in forma pauperis application with the Sixth Circuit. A review of the Sixth Circuit docket sheet indicates that this motion was filed simultaneously with this Court and the Sixth Circuit.

The Clerk shall transmit a copy of the order to the United States Court of Appeals for the Sixth Circuit.

IT IS SO ORDERED this 7 day of July, 2005.



JON PHIPPS McCALLA
UNITED STATES DISTRICT JUDGE



Notice of Distribution

This notice confirms a copy of the document docketed as number 15 in case 2:03-CV-02812 was distributed by fax, mail, or direct printing on July 8, 2005 to the parties listed.

Derrico Lashaun Moody
17637-076
P.O. Box 4000
Manchester, KY 40962--400

Honorable Jon McCalla
US DISTRICT COURT